

ARKANSAS SUPREME COURT

No. 05-1027

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered October 5, 2006

JEREMY KENNEDY
Appellant

PRO SE APPEAL FROM THE CIRCUIT
COURT OF LINCOLN COUNTY, LCV-
2005-69, HON. ROBERT HOLDEN
WYATT, JR., JUDGE

v.

MINNIE DRAYER
Appellee

AFFIRMED

PER CURIAM

Jeremy Kennedy is incarcerated in the Cummins Unit of the Arkansas Department of Corrections. In an underlying *pro se* action pursuant to 42 U.S.C. §1983, appellant maintained that a disciplinary action ruling was wrongly decided, and that the resulting punishment was improper. He sought reversal of the decision, restoration of his prior inmate classification and payment of compensatory and punitive damages. He then filed a *pro se* motion to dismiss the lawsuit. The trial court entered an order granting the motion to dismiss, finding that the dismissal constituted a “strike” within the meaning of Ark. Code Ann. §16-68-607 (Repl. 2005).¹

Appellant then filed a *pro se* motion to amend the final judgment, challenging the trial court’s

¹ The statute at issue, section 16-68-607, which tracks the similar federal statute found at 28 U.S.C. §1915(g) (2000), states *in toto*:

In no event shall an incarcerated person bring a civil action or appeal a judgment in a civil action or proceeding under the Arkansas indigency statutes if the incarcerated person has on three (3) or more prior occasions, while incarcerated or detained in any facility, brought an action that is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the incarcerated person is under imminent danger of serious physical injury.

determination that the dismissal would be counted as a strike under section 16-68-607. The amended order of dismissal found the underlying lawsuit to be frivolous, thus supporting the determination that the dismissal constituted a strike. Appellant, proceeding *pro se*, has lodged an appeal here from that order.

First, we note that appellant failed to include the notice of appeal in the addendum as required by Ark. Sup. Ct. R. 4-2(a)(8). We will, however, not require appellant to file a substituted addendum in conformance with Rule 4-2(b) to cure this deficiency, as it is clear on the record before us that appellant could not prevail. *See Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (*per curiam*); *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (*per curiam*).

Here, appellant's entire argument to this court consists of the following three sentences under the heading "Summary of Argument":

1. PLAINTIFF [sic] PETITION WAS NOT FRIVOLOUS[.]
2. PLAINTIFF[']S PETITION WAS DISMISSED BECAUSE HE REQUESTED THE COURT TO DO SO.
3. THIS DISMISSAL DOES NOT CONSTITUTE A STRIKE WITHIN THE MEANING OF A.C.A. §16-68-607.

In his addendum, appellant includes the original order of dismissal and the amended order of dismissal. The table of contents indicates that the addendum was to also include a "Sample order from Federal Court showing that Voluntary dismissals are not counted as strikes." However, the addendum did not contain the sample order.

Other than the reference to a sample federal order contained in the table of contents, appellant presents no argument or authority in support of his contention. We have frequently stated that we will not consider an argument, even a constitutional one, when the appellant presents no citation to authority or convincing argument in its support, and it is not apparent without further research that

the argument is well taken. *Hollis v. State*, 346 Ark. 175, 55 S.W.3d 756 (2001). This court does not research or develop arguments for appellants. *Hester v. State*, ____ Ark. ____, ____ S.W.3d ____ (May 19, 2005).

Affirmed.